

ADMINISTRATIVE PANEL DECISION

Engineer.AI Global Limited v. Builder.ai Builder.ai
Case No. D2024-4083

1. The Parties

The Complainant is Engineer.AI Global Limited, United Kingdom ("UK"), represented by Birkett Long LLP, UK.

The Respondent is Builder.ai Builder.ai, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <builderai-global.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 4, 2024. On October 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 8, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 31, 2024.

On November 2, 2024, the Complainant submitted a request for the addition of the <builderaiglobal.com> domain name to the current proceeding.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on November 5, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a company based in the UK, running the AI-powered composable software platform “Builder.ai”.

The Complainant is the owner of a number of BUILDER.AI trademarks worldwide, particularly:

- European Union Registration No. 018333242 for BUILDER.AI (figurative mark), registered on March 31, 2021, for goods and services in classes 9 and 42;
- UK Registration No. UK00003551010 for BUILDER.AI (word mark), registered on March 12, 2021, for goods and services in classes 9 and 42;
- United States Registration No. 7394821 for BUILDER.AI (word mark), registered on May 28, 2024, for goods and services in classes 9 and 42.

The Complainant runs the website under the domain name <builder.ai>.

The disputed domain name was registered on May 19, 2024. At the time of filing the Complaint, the disputed domain name resolved to a website, displaying the Complainant’s trademark. On the moment of issuing this Decision, the disputed domain name leads to an inactive webpage.

5. Parties’ Contentions

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

(1) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. Notably, the Complainant’s trademarks are confusingly similar to the disputed domain name, because the word combination “builder.ai”, which is the dominant element of the figurative marks, is incorporated in its entirety into the disputed domain name.

(2) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has neither interest in the term “builder.ai”, nor interest or connection with either United States, or the “.com” suffix. The Respondent has no trademark rights in the name “builder.ai”. There is no evidence that the Respondent has been commonly known by the disputed domain name. The website under the disputed domain name did, for a period, show material infringing the trademarks of the Complainant, but currently is not active. There is no evidence of bona fide use or intention to use. The Respondent might put the disputed domain name to will either be for the purpose of impersonating the Complainant or at least that the Respondent is affiliated with the Complainant, which is not a fair use. The Respondent’s conduct is simply cybersquatting, by impersonating the Complainant.

(3) The disputed domain name was registered and is being used in bad faith. The Respondent chose to completely mimic the layout of the Complainant’s website, including the incorporation of the Complainant’s registered trademarks into the design of the holding website. The Respondent fabricated the “Authorization Letter” that falsely represented themselves as an officially approved third party contracted by the Complainant in the United States. The disputed domain name wholly incorporates the Complainant’s trademark BUILDER.AI. The addition of the term “global” to the disputed domain name may further advance a false representation by the Respondent, namely that the Complainant’s business is conducted

internationally (including in the United States) with the Complainant's approval. In addition, the term "global" is derived from the Complainant's registered company name. The registration of the disputed domain name was specifically and exclusively undertaken with a view to gain commercially.

The Complainant requests the disputed domain name be transferred.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1. Consolidation

On November 2, 2024, almost one month after the Complaint had been notified to the Respondent and the proceedings had formally commenced, the Complainant submitted an amended Complaint, requesting to add the domain name <builderaiglobal.com> to the current proceeding.

It is up to the Panel to determine whether or not to accept the Complainant's request to add the domain name to the Complaint after the Respondent had been notified of the Complaint and the proceeding had formally commenced (see section 4.12.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

After carefully looking through the Complainant's request and the amended complaint, the Panel rejects the Complainant's request for the following reasons:

- (1) The domain name was registered on May 19, 2024, at the same time as the disputed domain name;
- (2) The Complainant is not precluded from filing a separate complaint regarding the domain name;
- (3) The Complainant has not provided relevant evidence on whether the domain name was used and in which way;
- (4) Section 4.12.2 of the [WIPO Overview 3.0](#) makes it clear that: "Except in limited cases where there is clear evidence of respondent gaming/attempts to frustrate the proceedings (e.g., by the respondent's registration of additional domain names subsequent to complaint notification), panels are generally reluctant to accept such requests because the addition of further domain names would delay the proceedings (which are expected to take place with due expedition)". There is no evidence that the Respondent is trying to frustrate the proceedings as the domain name was registered at the same time as the disputed domain name.

6.2. Substantive issues

Paragraph 15(a) of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out its case and it is apparent, both from the terms of the Policy and the decisions of past UDRP panels, that the Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer the disputed domain name. In UDRP cases, the standard of proof is the balance of probabilities.

To succeed in a UDRP complaint, the Complainant has to demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, the Panel's decision shall be based upon the Complaint.

However, even if the Respondent has not replied to the Complainant's contentions, the Complainant still bears the burden of proving that all these requirements are fulfilled. Concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 4.3 of the [WIPO Overview 3.0](#).

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the evidence submitted by the Complainant, the Panel finds that the Complainant has shown rights in respect of its BUILDER.AI mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Complainant's mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The elimination of the dot sign, addition of the hyphen followed by the term "global" cannot prevent the finding of confusing similarity between the disputed domain name and the Complainant's BUILDER.AI mark. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain ".com" in the disputed domain name should be viewed as a standard registration requirement and disregarded. [WIPO Overview 3.0](#), section 1.11.1.

The Panel therefore finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Based on the available record, the Panel finds that the Respondent has no trademark rights related to the disputed domain name. The Panel also finds that the Respondent has not been commonly known by the disputed domain name.

As it stands from the available record, the Complainant has not licensed, authorized, or permitted the Respondent to register the disputed domain name incorporating the Complainant's mark. The Panel also takes into account that the Respondent is not sponsored by or legitimately affiliated with the Complainant in any way.

There is no evidence to suggest that the Respondent has used or made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, as demonstrated by the Complainant, at the time of filing the Complaint, the disputed domain name resolved to a website mimicking the Complainant's website, where the Complainant's BUILDER.AI trademark was used. This suggests that the disputed domain name clearly refers to the Complainant, its trademarks, and its goods.

After reviewing the available record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie case and has not provided any relevant evidence demonstrating rights or legitimate interests in the disputed domain name as outlined in the Policy or otherwise.

Noting the above, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Complainant asserts that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks. The Respondent has not refuted this contention. The Complainant has valid trademark rights for BUILDER.AI, and the disputed domain name is confusingly similar to the Complainant's mark. Accordingly, without any evidence to the contrary from the Respondent, the Panel infers that the Respondent was aware of the Complainant at the time it registered the disputed domain name.

The Respondent's use of the Complainant's trademark on the website, mimicking the Complainant's website, also clearly indicates awareness of the Complainant and a deliberate attempt to target the Complainant. The Panel therefore finds that the Respondent acted in bad faith by its registration and use of the disputed domain name, intentionally creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent's website with the purpose of attracting Internet users for commercial gain as per paragraph 4(b)(iv) of the Policy.

Considering the Respondent's lack of response in this proceeding, the previous use of the disputed domain name, the totality of the circumstances suggests bad faith.

Based on these circumstances and the evidence presented, the Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <builderai-global.com> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: November 14, 2024